the principal case is in accord with the conclusion in *Southcote* v. *Stanley*, 1 H. & N. 274. See also *Derby* v. *Railroad Co.*, 14 How. 468.

PARTNERSHIP—DUTY TO KEEP ACCOUNTS—ILLITERATE PARTNER.—Upon a bill for an accounting, the master found that both partners were illiterate, that no systematic accounts of the firm business had ever been kept, and that while plaintiff was absent and defendant was in charge of the business the same methods of bookkeeping were employed as theretofore. *Held*, defendant not liable for failure to keep proper books of account. *Poulette* v. *Chainay* (Mass., 1921), 129 N. E. 290.

The universally recognized duty of partners to exercise toward each other the utmost good faith in all their business dealings is well stated by Bacon, V. C., in *Helmore* v. *Smith*, 35 Ch. D. 436, 444. As a component part of the larger doctrine, every partner has the duty to see that proper accounts are kept of the partnership transactions. MECHEM, PARTNERSHIP, § 116. Failure of a partner to keep, or to enable another designated partner or clerk to keep, such accounts creates a presumption against the *bona fides* of such partner. *Dimond* v. *Henderson*, 47 Wis. 172; *Kelly* v. *Greenleaf*, 3 Story (U. S. C. C.) 105. But such presumption may be rebutted. *Tallmadge* v. *Penoyer*, 35 Barb. (N. Y.) 120; *Garretson* v. *Brown*, 185 Pa. St. 447; *Ferguson* v. *Wright*, 61 Pa. St. 258. It was held in the principal case that the presumption was rebutted by a showing that the defendant did all that might reasonably have been expected of one in his circumstances. And indeed such is the general requirement, although it is often stated in broader terms. The duty imposed is in its very nature co-related with the question of motive, and should not be judged or measured by a purely external standard. *Charlton* v. *Sloan*, 76 Ia. 288. That this is true is shown by the case of *Shoemaker* v. *Shoemaker*, 29 Ky. L. Rep. 134, in which a partner was held not liable for employing a deficient system of bookkeeping because the same system had been used for a number of years to the knowledge of the other partners and without any objection from them.

RULE IN SHELLEY'S CASE—ESTATES—WILLS.—Grantor conveyed to trustees on trust for J for life, remainder the heirs of her body. Trustees were given right actively to manage the estate during the life of J if they thought it wise. *Held*, J only took a life estate and the Rule in Shelley's Case did not apply, since the life estate was an equitable estate, while the remainder was a legal estate. *Youmans* v. *Youmans* (S. C., 1920), 105 S. E. 31.

Grantor conveyed to S for life, and after her death to her heirs in fee. *Held*, Rule in Shelley's Case applicable and S acquired an estate in fee simple. *Starling* v. *Newson* (N. C., 1920), 105 S. E. 3.

Testator devised to M for life, remainder to the heirs of her body lawfully begotten. *Held*, Rule in Shelley's Case did not apply, since from the whole instrument it appeared the testator meant the remainder to go to the children of M. *Blackledge* v. *Simmons* (N. C., 1920), 105 S. E. 202.

These cases, decided within a month of each other and reported in the

same series, are indicative of the ever recurring decisions based upon the feudal rules of law commented on in 19 MICH. L. REV. 426. The first of the cases abstracted above was decided on the basis of technical rules of ancient origin as to the operation of the Statute of Uses; while the third is illustrative of the lengths a modern court will go in declaring medieval rules inapplicable to the facts at hand, in spite of authority to the contrary, where to apply the rule would defeat the intentions of the testator. The canons of construction used and the fine distinctions drawn, whereby the words "heirs of her body lawfully begotten" were constructed as "children," would probably have appalled the judges who decided such cases as *Jesson* v. *Wright*, 2 Bligh. 1, and *Van Grutten* v. *Foxwell*, [1897] App. Cas. 658. In *George* v. *Morgan*, 19 Pa. 95, the court held that the Rule in Shelley's Case did apply to limitations exactly similar to the estates limited in the principal case. For a collection of the authorities, see 29 L. R. A. (N. S.) 963.

TRIALS—MISCONDUCT OF JURY—COMMUNICATION AS BASIS OF NEW TRIAL. —A conviction for murder had been affirmed in the supreme court. An extraordinary motion for new trial was made by the defendant because it was found that the jury, which then stood ten for guilty and two for guilty with recommendation for mercy, had requested the deputy in charge to inform the judge that they could not agree and wished to go home. He did so, and told them that the judge would not release them, adding that "the judge would keep them locked up until they did make a verdict." In a few minutes the jury brought in a verdict of guilty. All save three of the jurors made affidavits that they were not influenced by the deputy's remark, among them the two who had voted for mercy. *Held*, motion sustained and judgment reversed. *Harris* v. *State* (Ga., 1920), 104 S. E. 902.

This decision represents the *reductio ad absurdum* of maintenance of the purity of jury trials. If an officer of the court makes statements calculated to influence the verdict of the jury, it is ground for a new trial. *State* v. *LaGrange*, 99 Iowa 10. But if it does not appear that conduct had the effect of forcing or influencing the verdict, there is no reason for granting a new trial. In *Pope* v. *State*, 36 Miss. 121, the bailiff, in jest, told the jury that unless they decided one way or another they would have nothing to eat or drink. It was held that, although the remark was illegal, the only motive was for concurrence, and could not affect one party or the other; that it was not calculated to affect the deliberations of the jury. See civil cases: *Leach* v. *Wilbur*, 9 Allen 212; *Wiggins* v. *Downer*, 67 How. Pr. 65. In *State* v. *Cady*, 46 La. Ann. 1346, the officer in charge of the jury said that they had better go to work, for if they didn't decide the case the judge would lock them up until Saturday, and it was held that this would not influence reasonable men, and was not of such a nature that injury could fairly be presumed. A similar remark was made in *Alexander* v. *State*, 22 So. 871 (Miss.), where it was said that the integrity and independence of the jury could not be thought to be affected by the servant's misconduct. *Obear* v. *Gray*, 68 Ga. 182, and *Smith* v. *State*, 122 Ga. 154, cited by the court in the principal case